

Alabama State Board of Auctioneers

NOTICE OF INTENDED ACTION

AGENCY NAME: Board of Auctioneers

RULE NO. & TITLE: 150-X-1-.01 Definitions

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Board proposes to amend this rule to clarify the circumstances under which property may be withdrawn from an absolute auction.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written or oral comments will be received by the Board until 4:30 p.m. on Friday, September 4, 2009. Comments should be directed to Keith E. Warren, Executive Director, at 610 S. McDonough Street, Montgomery, AL 36104 or via electronic mail at keith@warrenandco.com or via telephone at 334-269-9990.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Friday, September 4, 2009

CONTACT PERSON AT AGENCY: Keith E. Warren
Executive Director
610 S. McDonough Street
Montgomery, AL 36104
(334) 269-9990



Keith E. Warren, Executive Director
Alabama State Board of Auctioneers

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: Alabama State Board of Auctioneers

Rule No.: 150-X-1-.01

Rule Title: Definitions

_____ New X Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's
Police power and the protection of the public health,
Safety, or welfare? Yes

Is there another, less restrictive method of regulation
Available that could adequately protect the public? No

Does the proposed rule have the effect of directly or
Indirectly increasing the costs of any goods or services
Involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public
Than the harm that might result from the absence of
The proposed rule? No

Are all facets of the rulemaking process designed solely
For the purpose of, and so they have, as their primary
Effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be
accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-
22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the
requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all
applicable filing requirements of the Administrative Procedure Division of the Legislative
Reference Service.

Signature of certifying officer _____

Date: July 16, 2009

REC'D & FILED

JUL 20 2009
(DATE FILED)

(STAMP)
LEGISLATIVE REF SERVICE

150-X-1-.01 Definitions.

- (1) Auction: A public sale of property to the highest bidder.
- (2) Absolute Auction: An auction without reserve. See Auction Without Reserve.
- (3) Auction With Reserve: An auction in which the seller or his agent reserves the right to establish a minimum bid, to accept or reject any and all bids and to withdraw the property at any time prior to the completion of the sale by the auctioneer.
- (4) Auction Without Reserve: An auction in which property put up for sale is sold to the highest bidder; where no minimum price will limit the bid; where the seller may not withdraw the property from the auction after the auctioneer calls for bids, unless no bid is made within a reasonable time; and where the seller may not nullify the sale by bidding himself or through an agent. "Auction Without Reserve" is equivalent to the term "Absolute Auction." The practice of deliberately misleading customers/buyers by marketing a property as "absolute" for the sole purpose of obtaining a pre-auction bid which is sufficient to meet or exceed the actual reserve of the seller, with the intention of either converting to a reserve auction or canceling the sale if the strategy is unsuccessful, is strictly prohibited and may be grounds for disciplinary action against the licensee.